

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>DASHAWN COLEMAN,</b>	)	<b>District Judge McLaughlin</b>
	Petitioner,	<b>Magistrate Judge Baxter</b>
v.	)	
	)	
<b>MARILYN S. BROOKS,</b>	)	
	Defendants.	<b>Civil Action Number 04-340 Erie</b>

**O R D E R**

AND NOW, this 29th day of November, 2005, upon review of Plaintiff's complaint and Defendants' motion to dismiss and brief in support thereof,

IT IS HEREBY ORDERED THAT Plaintiff file an amended **legible** complaint in compliance with the Federal Rules of Civil Procedure before December 15, 2005, which specifies what each named defendant is alleged to have done to Plaintiff. The petition must be legible to this Court. Failure to comply with this Order **will** result in the dismissal of this action for failure to prosecute.

IT IS FURTHER ORDERED THAT Plaintiff shall, on or before December 15, 2005, either pay the filing fee or return the signed authorization to withdraw funds from Plaintiff's account. Failure to do so may result in the dismissal of this action for failure to prosecute.

IT IS FURTHER ORDERED THAT Defendants' Motion To Dismiss (doc. #7) is dismissed without prejudice to re-file following the filing of Plaintiff's amended complaint.<sup>1</sup>

IT IS FURTHER ORDERED that the parties are allowed ten (10) days from this

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<sup>1</sup>

Defendants' motion is confusing. Defendants base their motion on an incorrect date for the events of which Plaintiff complains. Plaintiff's complaint lists the date of 11/1/04 as the "date of event," and Defendants argue that the statute of limitations has run on the claim. The complaint was received on November 26, 2004.

date to appeal this order to a district judge pursuant to Local Rule 72.1.3 B. Failure to appeal within ten (10) days may constitute waiver of the right to appeal.

/s/ Susan Paradise Baxter

SUSAN PARADISE BAXTER

UNITED STATES MAGISTRATE JUDGE

cc: all parties of record (lw)